



April 2, 2012

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform – Mobility Fund, WT Docket No. 10-208

Dear Ms. Dortch:

On Thursday, March 29, 2012, the undersigned met on behalf of the National Telecommunications Cooperative Association (“NTCA”) with Christine Kurth, Policy Director and Wireline Counsel to Commissioner McDowell, to discuss ongoing reform efforts in the above-referenced proceedings.

Regression Analysis Caps. I highlighted a series of problems with the proposed regression analysis-based approach to developing and implementing caps on capital and operating expenses supported through the federal universal service fund (“USF”), and urged action in several respects.

First, I emphasized the importance of ensuring predictability in connection with USF support, consistent with the Communications Act of 1934, as amended. The dynamic, year-by-year alteration of the caps as currently contemplated presents substantial challenges for all rural local exchange carriers (“RLECs”). Specifically, I stated that NTCA members have expressed a consistent fear that any given RLEC might be the “next one” to trigger the caps, and it should also be noted that lenders and investors have expressed deep confusion at attempting to forecast the effects of any caps because of their dynamic nature. Indeed, I explained that this unpredictability has led even those that appear unaffected by the caps at first – and even those individual RLECs that might be poised to receive some incremental support in the first year – to avoid much-needed broadband deployment or upgrades (including stimulus-related construction efforts) for fear of triggering the caps in subsequent years. Allowing such uncertainty to perpetuate and to potentially stymie the deployment of broadband would be contrary to the very purpose of the National Broadband Plan, the President’s own stimulus initiatives, and the stated objectives of reform. Second, I highlighted a series of substantive underlying problems with the

proposed regression analysis-based approach to developing and implementing caps; the specific points raised were consistent with an *ex parte* filing submitted by NTCA last week. *Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed Mar. 23, 2012). We discussed in particular that certain of the data underlying the regression analysis are flawed in ways that would have “ripple effects” throughout the models and affect the support distributions for many carriers; I also noted that there appears to be significant confusion about potential procedural roadblocks to having such data corrected in a timely and efficient manner, and NTCA hopes that the Wireline Competition Bureau (the “Bureau”) would make necessary modifications to address data shortcomings without the need for the filing of individual company waivers. *See Ex Parte* Letter from Joshua Seidemann, Director – Policy, NTCA, to Marlene H. Dortch, Secretary, WC Docket No 10-90, *et al.* (filed March 21, 2012).

If the Federal Communications Commission (the “Commission”) and the Bureau will not adopt the alternative constraint submitted by NTCA and other rural associations last year for placing reasonable, transparent, locally-tailored, and prospective controls on USF by tying a schedule for future investment to replacement of depreciated plant, *see* Comments of NTCA, *et al.* (filed April 18, 2011), at Appendix A, it would be appropriate at a minimum to publish a revised proposal for the regression analysis-based caps and provide reasonable opportunity for further comment prior to adoption and implementation. Indeed, in light of the substantive and data-related concerns associated with the regression analysis models as they stand currently, the Commission’s professed commitment to “no flash cuts” and proper administrative procedure dictate against adopting “changes on the fly” in a manner that would have materially modified models take effect on only several weeks’ notice before July 1, 2012. *See also Ex Parte* Letter from Kenneth C. Johnson, Counsel for Central Texas Telephone Cooperative, WC Docket No 10-90, *et al.* (filed March 23, 2012) (citations omitted).

Audit Reporting Concerns. I also called Ms. Kurth’s attention to a letter that I had submitted with respect to certain financial reporting requirements. *Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed Mar. 27, 2012). In particular, I urged the Commission to: (1) permit all RLECs to submit a financial reporting form analogous to RUS Form 479, as signed by company representatives, in August or the early fall of each year in lieu of requiring certified audit reports by April 1 of each year; (2) allow RLECs to prepare the information on such a form through a compilation process in lieu of annual reports of financial condition and operations that have been audited and certified by an independent certified public accountant; and (3) allow RLECs to submit financial data under seal pursuant to the established protective order process, and also permit any given RLEC to seek such additional protection as it may deem necessary and appropriate under applicable law.

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Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President - Policy

cc: Christine Kurth